

Santa Clara



City of Santa Clara, California

**DATE:** April 9, 2009**TO:** City Manager for Council Action**FROM:** Director of Streets & Automotive Services**SUBJECT:** Public Hearing on Consideration of Granting an Extension of Exclusive Franchise for Collection, Transportation, and Disposal of Refuse or Conducting a Competitive Request for Proposal Process**EXECUTIVE SUMMARY**

Mission Trail Waste Systems (MTWS) has submitted an application and request to extend and amend their franchise agreement with the City of Santa Clara for collection, transportation, and disposal of refuse from residential, institutional, and commercial property zoned areas in the City. A copy of this application document has been placed in Council Offices for review. Mission Trail has requested that the term of the agreement be extended until December 30, 2020. This would be a ten (10) year extension to the existing agreement and an increase in rates necessary to replace equipment, collection carts, and acquire new compressed natural gas (CNG)-powered decreased particulate emission vehicles. Additional services offered would be an enhanced commercial recycling program, CNG-powered vehicles, enhanced special event services, added drop-off opportunities for recyclable and specific household hazardous waste materials, continued residential household battery collection, and option to implement an expanded Clean Green program.

Sections 8.25.220 and 8.25.240 of the City Code state that the City Council, upon receipt of an application, must notice a public hearing and may pass a resolution of intention to grant a contract. The City Clerk published the notice of hearing which stated the character of the contract, set forth a notice of the day, hour, and place when and where anyone objecting to the consideration of granting the contract may appear and be heard. A preliminary analysis of the subject application was submitted for Council Information at the March 17, 2009 Council meeting and is incorporated in the Discussion section of this report. At the public hearing, staff will summarize and present additional information with respect to these requests, company performance, and recommendations for Council consideration.

ADVANTAGES AND DISADVANTAGES OF ISSUE

Both extending the current subject agreement, or a competitive bid process, could be in the City's best interests. A more detailed analysis of the application received would be required to determine the value cost of service, and whether a request for proposals might actually result in lower costs and/or improved services. Since 1960, the City has approved extensions and restatements of the franchise agreement for collection of garbage and Clean Green with Mission Trail. A countywide survey indicates that half the jurisdictions negotiate extensions, and half solicit proposals for garbage collection franchise agreements.

Available data suggests that the City is currently getting good value from the service provided by MTWS. The City has the lowest solid waste rates in Santa Clara County with very little General Fund subsidy. The collection service provided has been very good, and customer complaints are rare. Staff predicts that MTWS is able to offer the lowest cost and most extensive services, and would also most likely be the lowest bidder in a competitive bid process due to the following reasons:

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1. MTWS already owns all of the collection containers (value of \$4.2 million) necessary to provide the necessary services.
2. MTWS employees are experienced and familiar with the Santa Clara programs, collection routes, and administrative requirements, and no change in labor union agreement is required.
3. MTWS has its corporation yard, corporate office and transfer station in Santa Clara.
4. MTWS, with its transfer station, is currently the only contractor able to provide two free dump days at a permitted facility within Santa Clara City limits (value of \$50,000 per year).
5. MTWS has proposed to incorporate enhancements to the current agreement: continued free recycling service at City properties (value \$50,000 per year); University move-out collection program (value \$2,000 per year); providing free and reduced charge recycling for commercial customers; and switching its collection vehicle fleet to CNG fueled vehicles (value \$311,000 per year).

The potential merits of a competitive bid process include the following:

1. Through a competitive process, the City will have the opportunity to evaluate a range of proposals providing a "yardstick" for comparisons.
2. Another contractor may be able to provide services at a lower cost than that proposed by MTWS.
3. MTWS may be the lowest bidder, and may reduce its tariff pricing beyond what is proposed in contract extension negotiations, similar to what Stevens Creek Disposal and Recycling did with the residential single-stream recycling contract competitive bid process conducted in May 2008.
4. The successful bidder may propose to include enhanced services beyond what the City specifies in the competitive bid process.
5. A competitive bid process is more transparent to the public and other service providers.
6. A competitive bid process for solid waste contracts is considered the best practice by many public agencies (half of Santa Clara County public agencies).

The potential disadvantages of a competitive bid process include the following:

1. The potential of having as many bidders for a garbage and Clean Green request for proposals (RFP), as for the single-stream recycling RFP, is poor. One of the five companies that bid on the residential recycling contract RFP is exclusively a recyclable materials collection company at this time. Others may not be inclined to bid because they perceive that MTWS has too large of an advantage because it owns its containers and maintains its corporation yard, corporate offices and transfer station in Santa Clara.

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2. MTWS may perceive that the competition is not that eager to bid to provide services and submit a proposal that has higher prices than could have been negotiated.
3. Although negotiating with MTWS will involve staff time, a competitive RFP would take additional time to prepare a detailed RFP and evaluate proposals which is costly in terms of staff time and consultant costs.
4. If a contractor other than MTWS is selected, there is the possibility of having the employees represented by a different labor unit.

ECONOMIC/FISCAL IMPACT

A detailed analysis of the application would be necessary to determine the impacts and value of the proposed application.

OPTIONS TO CONSIDER AT CLOSE OF PUBLIC HEARING

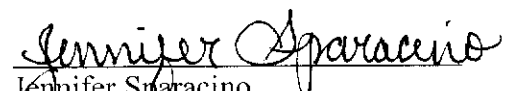
- Council refer Mission Trail Waste Systems' request for amendment to City Manager for negotiations, or
- Council note and file Mission Trail Waste Systems' request for amendment, and direct City Manager to solicit competitive bids for exclusive franchise agreement.

RECOMMENDATION

That the Council, at the close of the public hearing, note and file Mission Trail Waste Systems' request for amendment, and direct the City Manager to solicit competitive bids for exclusive franchise agreement for collection, transportation, and disposal of refuse.


Richard J. Mauck
Director of Streets & Auto Services

APPROVED:


Jennifer Sparacino
City Manager

Documents Related to this Report:

1) Application by Mission Trail Waste Systems for Exclusive Franchise Agreement Extension, Amendment, and Rate Revisions

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DISCUSSION

On October 9, 2008, Mission Trail Waste Systems (MTWS) submitted an application for an *Amendment and Extension of Term of the First Amended and Restated Exclusive Franchise Agreement for Collection, Transportation and Disposal of Refuse By and Between The City of Santa Clara and Mission Trail Waste Systems, Inc., Dated June 9, 1998*. The purpose of this analysis is to evaluate the advantages and disadvantages of entering into negotiations with MTWS, based on the merits of the application submittal requesting a contract extension.

The City of Santa Clara has one of the lowest solid waste collection rates in the County which, in combination with other incoming revenue streams, funds 99% of the Solid Waste Program's \$16,852,000 annual operating budget. Collection service provided has been very good, and customer complaints have been rare. Staff is confident that the City is getting very good value out of the current franchise collection agreement. Whether the City enters into negotiations with MTWS, or proceeds with a competitive bid process, it is foreseen that the costs for collection services will rise somewhere between 10% and 20%. Reasons for the expected increase in costs for collection service include the following factors: 1) the current CPI adjustment factor in the current agreement has not kept pace with the costs of doing solid waste collection service business over the last several years so new proposals would reflect this one-time adjustment, and 2) alternative fuel collection vehicles will be specified in the next collection agreement, which are estimated to be 3-5% more expensive than diesel fuel (compressed natural gas [CNG] or biodiesel powered) collection vehicles to purchase and operate.

The merits of negotiating an extension or amendment to the current agreement include:

- MTWS has provided excellent service to residents for over 50 years, businesses, and the City, has been active in the community, and its corporate offices, corporation yard, and transfer station are located in the City.
- MTWS services would continue to be provided by same employees and labor union arrangement.
- MTWS, with its transfer station, is currently the only contractor able to provide two free dump days at a permitted facility within Santa Clara City limits (value \$50,000 per year).
- MTWS has proposed to incorporate enhancements to the current agreement: continued free recycling service at City properties (value \$50,000 per year); University move-out collection program (value \$2,000 per year); providing free and reduced charge recycling for commercial customers; and switching its collection vehicle fleet to CNG fueled vehicles (value \$311,000 per year).
- MTWS has \$4.2 million worth of collection equipment infrastructure (containers) already in place, which gives it a large advantage, were the City to select the competitive bid process.
- Negotiations can be done with in-house staff, involving less staff time and costs than a competitive bid process.

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The merits of using a competitive bid process to select the next service provider include:

- Through a competitive process, the City will have the opportunity to evaluate a range of proposals providing a "yardstick" for comparisons.
- Another contractor may offer services at a lower cost than what Staff could negotiate directly with MTWS.
- MTWS may be the lowest bidder, and may reduce its tariff pricing beyond what is proposed and anticipated in contract extension negotiations, similar to what Stevens Creek Disposal & Recycling (SCD&R) did with the single-stream recycling competitive bid process.
- The successful bidder may propose to include enhanced services beyond what the City specifies in the competitive bid process.
- A competitive bid process is more transparent to the public and other service providers.
- A competitive bid process for solid waste contracts is considered the best practice by many public agencies (half of Santa Clara County public agencies).

Current Exclusive Franchise Refuse Collection Agreement

The current exclusive franchise refuse collection agreement with MTWS will expire on December 31, 2010. The services specified under the current agreement require MTWS to collect garbage and Clean Green materials from single-family households once per week. MTWS provides front-load container garbage service to multi-family complexes and businesses in areas designated with a commercial property zoning once to five times a week. MTWS offers voluntary commercial recycling programs for a fee to business customers with a commercial property zoning. MTWS provides on-call drop body debris bin service for all customers in the exclusive franchise collection area (properties zoned for residential and commercial use).

The MTWS fleet of collection vehicles run on diesel fuel and front-line vehicles can be no older than ten (10) years. MTWS also operates a transfer station in the City and provides two free residents-only disposal days per year at the facility as a requirement of its current agreement.

MTWS has purchased and owns all of the collection containers (wheeled carts, dumpsters, and debris bins) that service the exclusive franchise collection area of Santa Clara. The cost per side-load wheeled cart is estimated to be \$50 each. Each single-family customer has two containers, one for garbage and one for Clean Green. If a competitive bid process is used, another contractor would need to purchase and distribute new containers to all customers or purchase containers from MTWS. For just the single-family customers, this would add an estimated \$0.83 per month (\$100 container purchase / (12 months x 10 years), without including any amortization calculations. Front load dumpsters (approximately \$400 each) and debris bins (approximately \$3,000 each) are even more expensive. MTWS would have a significant advantage in a competitive bid process since it owns this infrastructure already. The value of this used, in-place infrastructure is approximately \$4.2 million dollars (\$2 million in wheeled carts, \$1.2 million in front-load bins, and \$1 million in debris bins).

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MTWS also provides the City with other services that are not explicitly stated in the current exclusive franchise collection agreement. In 2001, MTWS began providing single-stream recycling collection services at City Hall and all satellite City facilities on a weekly basis upon request, at no charge. In 2007, MTWS began picking up household batteries at single-family households for an additional \$0.05 per month per household. MTWS also provides four rear-load compactor truck collection crews, five appliance collection crews, and one tire collection crew for agreed-upon contracted rates every year during the Clean-Up Campaign.

The rate adjustment calculation methodology used under the current exclusive franchise collection agreement is based solely on the San Francisco-Oakland-San Jose area Consumer Price Index (CPI). MTWS is eligible for tariff rate adjustments each year of the agreement, effective July 1.

Solid Waste Rates Compared to Other Cities in Santa Clara County

The City of Santa Clara has the lowest single-family residential rates for solid waste collection services (garbage, Clean Green, and recycling) in Santa Clara County. The City of Mountain View has a lower single-can rate (\$16.40 per month versus \$17.05 in Santa Clara), but its two-can and three-can rates are significantly higher. The City of Santa Clara's monthly rate for one-can service is 23% less, the two-can rate is 39% less, and the three-can rate is 45% less than the County average for equivalent services.

Commercial Industrial Debris Box Refuse Current Service Rates in Santa Clara County were surveyed to show how the City of Santa Clara's commercial service solid waste rates compare to other local cities. The debris bin rates are difficult to compare across the county because each jurisdiction offers different sizes of bins and the City of San Jose has an open market for debris bin services. The 20 cubic yard and 30 cubic yard debris bin rates are the best to look at because most cities offer these bins. The average countywide rates for a 20 cubic yard and 30 cubic yard debris bins are \$505.58 and \$655.63, while the City of Santa Clara charges \$513.00 and \$665.40, respectively. The City's debris bin rates are approximately 2% higher than the countywide average.

A countywide survey was done for the monthly rate for a three (3) cubic yard front-load dumpster serviced one time per week. The countywide average charge for this service is \$285.26, while the City of Santa Clara charges \$152.14 (47% less than the countywide average). This was the only price point of comparison for front-load dumpster service done countywide. However, it is likely that the City offers much lower front-load dumpster debris rates to its customers than other countywide jurisdictions, based on the fact that a three cubic yard dumpster is a mid-size bin.

The rate that customers are charged for garbage and Clean Green service basically has three components: collections, disposal/composting, and overhead. The collections component, which is referred to as the tariff, varies for each type and size of the container. As a general rule of thumb, two-thirds of the revenue taken in for each type of collection service is paid to MTWS as a tariff. The other third is used to pay Newby Island Landfill for landfill/composting services and to cover City staff administrative costs.

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Solid Waste Program's Current Funding Status

In FY 2008-09, 99% of the Solid Waste Program's \$16,852,000 operating budget is funded through charges associated with services provided and revenue from other agencies (landfill tipping fees and Department of Conservation redemption monies). The other 1% (\$176,000) is funded by a transfer of funds from the General Contingency Reserve. The Clean Green Program is not fully funded by the service charges collected from customers, while the garbage collection charges fully cover the costs of collection and disposal. A raise in the Clean Green charge of about \$0.50/month would fully fund the program and eliminate that specific General Fund subsidy.

It should be noted that the monthly Residential Recycling Charge will need to be raised by an estimated \$1.10 per household per month to continue funding the Recycling Program at the same level, once the single-stream recycling program is implemented in December of 2009. In addition, Capital Improvement Projects (CIP) that are necessary to keep the closed All Purpose Landfill in regulatory compliance cost approximately \$405,000 annually. The Solid Waste Program's CIP budget is funded exclusively by a transfer of funds from the General Contingency Reserve.

In summary, the current fees for collection services, combined with revenue from other agencies are close to covering the total cost of the Solid Waste Program's operating budget. The customer service fees taken in are covering virtually the entire cost of solid waste collection programs that are the lowest cost programs countywide. Based on this information, Staff believes that MTWS is currently providing very cost-effective collection services to the City of Santa Clara.

MTWS Request for a Revised Rate Adjustment Calculation Methodology

MTWS is requesting the rate adjustment calculation methodology be revised as part of the agreement extension. According to MTWS, the San Francisco-Oakland-San Jose CPI has not accurately reflected the changes in the costs of doing solid waste collection business over the last several years. MTWS states that the breakdown of their costs are the following: 51.8% on labor, 5.8% on fuel, 9.5% on vehicle replacement, 4.5% on vehicle maintenance, and 29% on other expenses, for which the CPI would be a reasonable measurement tool.

MTWS proposes to use a rate adjustment calculation methodology that reflects their costs of doing business if an extension of the agreement is negotiated. If the City were to enter into negotiations for a contract extension, staff would evaluate the past performance of these indices to see if a one-time shift is necessary for the schedule of tariffs paid to MTWS for collection services. However, MTWS new proposed rate adjustment calculation may not be appropriate and would need to be discussed further.

Compressed Natural Gas (CNG) Collection Vehicles

In its application, MTWS stated that one of the reasons for wanting to enter into a franchise extension at this time is to enable it to purchase and amortize new collection equipment. According to the terms of the City's current agreement, no front-line collection vehicles can be over ten (10) years old. In the calendar year 2009, approximately 70% of MTWS front-line collection vehicles will turn 10 years old. MTWS does not want to be forced to purchase expensive new collection vehicles, if there is a chance that they will have the exclusive

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franchise collection contract for only one additional year. The City can grant MTWS an exception to the 10-year old front-line vehicle requirement, which would mitigate this issue regardless if the agreement is extended or a competitive bid process is undertaken. There would be a level playing field for all prospective bidders in a competitive bid process because all prospective bidders would have to purchase new collection vehicles.

MTWS proposes to change out its entire fleet from diesel fuel to compressed natural gas (CNG) collection vehicles. MTWS estimates that the fleet changeover to CNG would reduce its carbon footprint by 1,200 tons per year and secure regulatory compliance for the foreseeable future. Silicon Valley Power (SVP) estimates that when the Cap and Trade system begins in the year 2012, carbon offsets could realistically be \$50 per ton. This is a potential \$60,000 value annually.

The operation of CNG fueled collection vehicles is more expensive than operating diesel fueled collection vehicles. In the City's curbside recycling program Request for Proposals (RFP) process, Staff requested proposals for both diesel fuel and alternative fuel. All five contractors who submitted proposals offered to provide CNG powered vehicles. CNG powered vehicles ranged from \$0.11 to \$0.67 per household per month more to provide weekly curbside collection services than diesel fuel vehicles. MTWS quoted an additional \$0.15 per household per month (3.6 % more expensive than diesel fueled) to use CNG powered vehicles, as opposed to diesel fuel. MTWS proposed rates would likely be adjusted upward by 3.6%, at an estimated cost of \$311,00 annually to use CNG versus diesel fuel.

Commercial Recycling Program

In its application for the contract extension, MTWS proposes to provide 96 gallons of single-stream recycling capacity to all commercial customers at no charge upon request, and provide additional recycling collection service at 80% of the corresponding garbage rate. The front-load garbage dumpster service rates would need to be adjusted upward a bit to accommodate this free recycling program. However, setting a level of free commercial recycling would be an excellent incentive to get commercial businesses to recycle.

Commercial recycling is a definite weak point in the City's efforts to comply with AB 939 requirements. One of the main reasons, is the fact that the City's commercial front-load garbage service rates are so inexpensive, that recycling does not make economic sense for some businesses. The City's rate for a three cubic yard dumpster serviced one time per week is 47% less expensive than the countywide average from other jurisdictions. In many cases it is difficult to convince commercial customers to start recycling service because their total bill for solid waste services actually would increase. MTWS's commercial recycling proposal has definite merit.

Other Services Proposed Not In Current Franchise Agreement

MTWS proposes to explicitly incorporate many of the services it is currently providing for the City into a contract extension. MTWS proposes to continue to provide free recycling service to City Hall facilities. As mentioned before, MTWS has voluntarily been providing this service at no charge, as it is not a term in its current agreement with the City. The value of this service is estimated to be \$50,000 annually.

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MTWS also proposes to continue the collection of household batteries set out at the curbside at single-family homes on a weekly basis. The cost for this service would be incorporated into the Schedule of Tariffs. The current cost for the service is \$0.05 per household per month.

Although it is not a contractual requirement, MTWS has always been very active in community events. MTWS proposes to incorporate language into a contract extension that requires them to set up public information booths at the City's Arbor Day Festival, 4th of July Festival, and Art and Wine Festival. Staff incorporated language to this effect into the new curbside recycling agreement with Stevens Creek Disposal & Recycling (SCD&R).

In exchange for a contract extension, MTWS also proposes to provide two employees and one rear-load compactor truck for two free collection days around Santa Clara University. For the last two years, MTWS has followed City Staff around the University area and picked up extra garbage and bulky items left at the curb on the last Tuesday of June and first Tuesday of July. City Staff has advertised the special collection opportunity by leaving letters at the doorstep of each property, calculated the amount of material picked up, and billed customers via their utility bill at \$2.50 per cubic yard. This program has been very well received in the neighborhood and has greatly reduced Street Department time and effort spent on code enforcement in the University area during the end of school year move-out period. MTWS has been charging the City \$140 per hour to provide this service. The value of this program is estimated to be \$2,000 annually.

Merits of a Competitive Bid Process Versus Negotiating a Contract Extension

Recently, Staff, after discussing the possibility of an extension for the residential recycling collection program with the City's current contractor SCD&R, then recommended going out to competitive bid for the single-stream recycling residential recycling program. SCD&R proposed to offer single-stream recycling services to the City for \$2.75 per household per month prior to the competitive bid process. Staff did not have enough substantive data for comparison to support that this was in fact, a reasonable bid to provide a brand new service. All contractors submitting proposals were starting on a level playing field, in that each would have to purchase new collection vehicles and containers. Staff created a Request For Proposals and SCD&R was selected as the successful proposer, with a bid of \$2.39 per household per month to provide single-stream recycling services with B-40 blend biodiesel collection vehicles.

The exclusive franchise agreement for garbage and Clean Green collection is different. Past practice by the City since 1960 has been to negotiate a new or amended agreement with MTWS, typically per Council direction. A countywide survey of the current residential/commercial garbage collection franchise agreements was prepared and indicated that half went out to competitive bid, and half have been negotiated renewals/extensions.

Available data suggests that the City is currently getting good value from the service provided by MTWS. The City has the lowest solid waste rates in Santa Clara County with very little General Fund subsidy. The collection service provided has been very good, and customer complaints are rare. Staff predicts that MTWS is able to offer the lowest cost and most extensive services, and would also most likely be the lowest bidder in a competitive bid process due to the following reasons:

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1. MTWS already owns all of the collection containers (value of \$4.2 million) necessary to provide the necessary services.
2. MTWS employees are experienced and familiar with the Santa Clara programs, collection routes, and administrative requirements, and no change in labor union agreement is required.
3. MTWS has its corporation yard, corporate office and transfer station in Santa Clara.
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2. Another contractor may be able to provide services at a lower cost than that proposed by MTWS.
3. MTWS may be the lowest bidder, and may reduce its tariff pricing beyond what is proposed in contract extension negotiations, similar to what SCD&R did with the single-stream recycling competitive bid process.
4. The successful bidder may propose to include enhanced services beyond what the City specifies in the competitive bid process.
5. A competitive bid process is more transparent to the public and other service providers.
6. A competitive bid process for solid waste contracts is considered the best practice by many public agencies (half of Santa Clara County public agencies).

The potential disadvantages of a competitive bid process include the following:

1. The potential of having as many bidders for a garbage and Clean Green RFP, as for the single-stream recycling RFP, is poor. One of the five companies that bid on the recycling RFP is exclusively a recyclable materials collection company at this time. Others may not be inclined to bid because they perceive that MTWS has too large of an advantage because it owns its containers and maintains its corporation yard, corporate offices and transfer station in Santa Clara.

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2. MTWS may perceive that the competition is not that eager to bid to provide services and submit a proposal that has higher prices than could have been negotiated.
3. Time to prepare a RFP and evaluate proposals is costly in terms of staff time and consultant costs.
4. If a contractor other than MTWS is selected, there is the possibility of having the employees represented by a different labor unit, which was a City Council concern during the single stream recycling competitive bid process.



October 9, 2008

The Honorable Patricia M. Mahan, Mayor, and
City Council Members
City of Santa Clara
1500 Warburton Avenue
Santa Clara, California 95050

Application for:

- 1) **Extension of Term of Second Amended and Restated Exclusive Franchise Agreement for Collection, Transportation and Disposal of Refuse By and Between the City of Santa Clara and Mission Trail Waste Systems, Inc.;**
- 2) **Amended Schedule of Tariffs; and**
- 3) **Change to Rate Increase Calculation Methodology**

Dear Honorable Mayor and City Council:

In accordance with Section 8.25.210 of the Santa Clara City Code, please find enclosed for your consideration the above-entitled application to amend the *Agreement* between Mission Trail Waste Systems, Inc. (Mission Trail or MTWS) and the City of Santa Clara (City). The extension portion of the application sets forth the amendment to the *Agreement* between Mission Trail and the City, and the rationale for its acceptance by the City Council. (*Application, Item 5*). The application also requests and provides rationale for an amended schedule of tariffs and new language for rate calculation methodology (*Application, Item 6*). Proposed program enhancements to be added to the *Agreement* are described in this cover letter and included in the enclosed draft amendment to the *Agreement*, as well as addressed in the *Application (Item 7)*.

In exchange for acceptance of the extension of ten (10) years to December 30, 2020, amended *Schedule of Tariffs*, and rate adjustment calculation methodology (revised rate adjustment formulae), Mission Trail proposes to provide the services itemized below at no additional charge to the City. Specific language relating to these items may be found in the red-lined version of the *Agreement (Proposed Agreement)*, included with this application packet.

Commercial Recycling Program and City Facilities Recycling: MTWS commits to assertively and methodically reaching out to every Santa Clara business subscribing to bin service and serviced by front-loader collection vehicles to implement commercial recycling, at no additional charge to the City. Rates for commercial recycling at levels above the included 96-gallon service shall be at 80 percent of the corresponding garbage rates, as indicated in *Exhibit G* of the *Proposed Agreement*. Also, MTWS will continue its assistance to the City by providing free recycling collection services to City facility buildings at no additional charge to the City, including the in-house collection of recyclable materials from City Hall.

Compressed Natural Gas (CNG) Collection Vehicles: MTWS proposes replacement collection vehicles to be compressed natural gas (CNG) powered vehicles. The benefits of CNG powered vehicles over diesel powered vehicles is reduced pollution, reduced carbon footprint, compliance with current and future

RECEIVED
OCT 9 2008
OFFICE OF THE MAYOR
CITY OF SANTA CLARA

**NOTICE OF PUBLIC HEARING ON CONSIDERATION
OF GRANTING AN EXCLUSIVE FRANCHISE FOR
COLLECTION, TRANSPORTATION AND DISPOSAL OF REFUSE**

NOTICE IS HEREBY GIVEN that the City of Santa Clara has fixed April 21, 2009, at 7:00 P.M., in the City Hall Council Chambers, 1500 Warburton Avenue, Santa Clara, California, as the date, time and place of the Public Hearing for the purpose of considering and hearing all interested persons on the application of Mission Trail Waste Systems for a Second Amended and Restated Exclusive Franchise Agreement for Collection, Transportation and Disposal of Refuse By and Between the City of Santa Clara and Mission Trail Waste Systems.

Americans with Disabilities Act (ADA)

The public hearing location is accessible by wheelchair and public transportation. People with impaired speech or hearing may call (408) 615-2490 through 711 the nationwide Telecommunications Relay Service. The California Relay Service can also be reached in Spanish for both TDD and voice at 1-800-955-3000. Sign language interpretation, translation into languages other than English, and interpretation for persons with visual impairments are available. If you need sign or other interpretation, please call (408) 615-2490 at least one week in advance of the hearing. Reasonable modifications in policies, procedures and/or practices will be made as necessary to ensure access for all individuals with a disability or with limited English proficiency. For more information, contact City's ADA office at 408-615-3000.

Rod Diridon, Jr, City Clerk

environmental regulations, enhanced aesthetics, and improved equipment efficiency due to reduced equipment downtime.

Special Events: MTWS will also set up an informational booth at the following special events: a) City's Arbor Day Festival; b) City's Fourth of July Festival; and c) the Art and Wine Festival. MTWS is also now proposing to provide two free collection days to Santa Clara University during the school's move-out clean-up, to be scheduled the last Tuesday in June and first Tuesday of July each year.

Free Drop-Off Days: MTWS will continue to provide two free disposal days per year at the Transfer Station. Events will be conducted in the same fashion as is current practice.

No Change to Drop-Off of Recyclable Materials, and Specific Household Hazardous Wastes

Residential Household Battery Collection: MTWS shall continue to collect and recycle residential household batteries set out curbside in plastic zip lock bags, and the cost for service is included in the basic *Tariff Schedule* for residential service to single family households.

Enhanced Clean Green/Green Waste Program: If the City elects, during the extended term of the *Agreement* to implement an enhanced Clean Green collection program—which would include food scraps and trimmings from food preparation from residents and/or businesses—MTWS will collect the enhanced organic material set out and deliver same at no additional charge to the City.

Thank you for your time and consideration of this matter. Please feel free to contact our office at any time with questions or to obtain further documentation.

Best Regards,

Louie Pellegrini

Louie Pellegrini
President

BY: YESTER SESSIONS

Enclosures

cc: City Manager, City of Santa Clara

Application

*Amendment and Extension of Term of First Amended and Restated Exclusive Franchise Agreement
For Collection, Transportation, and Disposal of Refuse By and Between
The City of Santa Clara and Mission Trail Waste Systems, Inc., Dated June 9, 1998*

1. Applicant:

Mission Trail Waste Systems, Inc.
1060 Richard Avenue
Santa Clara, California 95050

2. Principal Officers and Directors:

Louie Pellegrini, President
Robert Molinaro, Vice President
Doug Button, Secretary
William Dobert, CFO

3. Service Applicant Proposes to Provide:

The Applicant proposes to extend the term of its existing refuse Franchise Agreement with the City by ten years, to December 30, 2020, under the same terms and conditions as set forth under the existing agreement, except as noted in *Item 6 – Other Proposed Changes*. A red-lined version of the proposed amended Agreement is attached in hard copy and on CD for the City's convenience.

4. Agreement does not conflict with the operative provisions of any existing exclusive franchise contract. Since the Applicant holds the existing exclusive Franchise Agreement, there is no conflict with any existing exclusive Franchise Agreement.
5. Proposed Amended Language - Extension of Term for proposed Second Amended and Restated Exclusive Franchise Agreement for Collection, Transportation and Disposal of Refuse is to be inserted as follows:

Article 2 - Term of Agreement

This Agreement supersedes the Prior Agreement with respect to events and activities after the Effective Date. The Agreement shall commence upon the Effective Date, and continue in effect until the 30th day of December 2020, unless sooner terminated in accordance with the provisions of the Agreement.

See the attached red-lined version of the proposed Franchise Agreement.

Rationale for Extension:

In addition to a precedential history of contract extensions ranging from 11 to 15 years since 1961, the primary and mutual driving factor in seeking this extension is the frontline equipment replacement schedule provided for in the *Current Agreement §5.1c* and *Exhibit F* and State mandated retrofitted pollution control equipment program schedule. The terms stated therein assure frontline collection equipment of no more than ten years old. An equipment replacement schedule coupled with a ten-year extension assures the stabilization of rates due to the ability to amortize the new equipment over that period, given the large capital commitment required. Additionally, newer collection equipment benefits the City and residents for these reasons: a) increased ease in meeting evolving environmental regulations; b) decreased downtime and the resulting inefficiency due to equipment breakdowns; c) enhanced aesthetics; and perhaps most importantly, d) a reduced carbon footprint. The proposed extension will allow MTWS to amortize new Compressed Natural Gas (CNG) collection vehicles over that ten-year period, meet current and future State and Federal environmental regulations, control pollution, and maintain the low rates Santa Clara residents are accustomed to paying.

The benefits of CNG-powered vehicles include decreased particulate emissions and, therefore, a reduced carbon footprint. Additionally, North America has vast reserves of natural gas; therefore, use of CNG power reduces dependency on foreign oil. The natural gas pricing is more stable than that of diesel. Please see the enclosed *Energy Equivalents of Various Fuels* chart, included, to compare CNG costs per diesel gallon equivalent.

6. Proposed Language – Adjustments to Rates and Charges for proposed Second Amended and Restated Exclusive Franchise Agreement for Collection, Transportation and Disposal of Refuse is as follows:

Article 7.2

- a. *The rates as set forth in the Schedule of Tariffs, attached hereto as Exhibit "B" and made a part hereof, are subject to periodic adjustment upon approval of the City Council, as follows:*
 - (1) Adjustment Based on Refuse Rate Index. *Rates set forth in the Schedule of Tariffs shall be increased as of July 1st of every year during the term hereof (an "adjustment date") to the nearest cent by the percentage increase, if any, in the Refuse Rate Index during the twelve (12) consecutive months ending with December 31st of the year preceding the adjustment date as contained in the most recent release of the source documents listed in Exhibit "G" to this Agreement. Pursuant to the following procedure.*
 - A. *Not later than April 5th of each year, Contractor shall file with the City a written Notice of Intention to adjust each of the then current rates effective as of July 1st of the same year by the percentage increase in the Refuse Rate Index for the twelve consecutive calendar months ending with December 31st of the prior year.*

Rationale for Amended Tariffs ("Exhibit B") and New Rate Adjustment Calculation Method

A new schedule of tariffs, effective with the date of the amended service provision, which includes cost increases for vehicle and equipment replacement, fuel, labor costs, and new Federal and State regulations is necessary because of changing conditions since the start of the current amended *Agreement*. MTWS will provide City staff with detail and back-up documentation for these necessary increases in the schedule of tariffs.

The existing method of calculating rate adjustments is based on the Consumer Price Index for San Francisco, Oakland, and San Jose. This index alone has not kept pace with extraordinary cost increases associated with, for example, fuel, labor (and related expenses such as employee health and welfare), and Federal and State regulations. The proposed methodology is becoming standard, is objective, and assures rate stabilization to rate payers without compromising service or the environment.

7. Proposed Additional Services to be Provided:

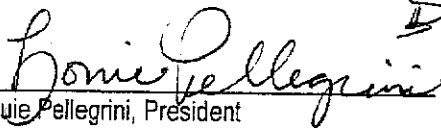
- a) Commercial Recycling Program and City Facilities Recycling: MTWS proposes to implement a weekly commercial recycling setout program with no charge for the first 96-gallon service level, and a rate equating to eighty (80) percent of garbage *Schedule of Tariff* rates for volumes over 96 gallons. MTWS will also provide, at no charge, recycling set out and collection at City and facility buildings, and in-house collection of recyclables from City Hall.
- b) Compressed Natural Gas (CNG) Collection Vehicles: MTWS proposes replacement collection vehicles to be Compressed Natural Gas (CNG) powered vehicles. The benefits of CNG-powered vehicles over diesel-powered vehicles is reduced pollution, reduced carbon footprint, compliance with current and future environmental regulations, enhanced aesthetics, and improved equipment efficiency due to reduced equipment downtime.
- c) Special Events: MTWS will also collect recyclable materials at no additional charge at the following special events: a) City's Arbor Day Festival; b) City's Fourth of July Festival; and c) the Art and Wine Festival. MTWS is also now proposing to provide two free collection days to Santa Clara University during the school's move-out clean-up, to be scheduled the last Tuesday in June and the first Tuesday of July each year.
- d) No Change to Drop-Off of Recyclable Materials, and Specific Household Hazardous Wastes.
- e) Residential Household Battery Collection: MTWS shall continue to collect and recycle residential household batteries set out curbside in plastic zip lock bags, and the cost for service is included in the basic *Tariff Schedule* for residential service to single-family households.

- f) Enhanced Clean Green/Green Waste Program: If the City elects, during the extended term of the *Agreement*, to implement an enhanced Clean Green collection program—which would included adding food scraps and trimmings from food preparation from residents and/or businesses, MTWS will collect the enhanced organic materials set out and deliver same at no additional charge to the city.

Mission Trail has requested in return an extension of its *Agreement* with the City so that Mission Trail can purchase new collection vehicles to comply with the *Agreement* with the City and regulatory conditions that would be in effect throughout the life of these replacement vehicles.

Mission Trail also believes, that in doing business with the City under the terms and conditions of its exclusive *Franchise Agreement*, the Company needs to be able to cover expenses and make a fair and reasonable profit—which contributes to financial stability and benefits the City and rate payers.

Therefore, Mission Trail believes it to be in the best interests of the City, ratepayers, and Mission Trail that this request for a contract extension, amended tariffs, change to the rate adjustment calculation methodology, and provision of enhanced contract services be granted.

By: YVETTE SESSIONS

Louie Pellegrini, President Date 10/9/08

CITY OF SANTA CLARA

AGENDA MATERIAL ROUTE SHEET

Council Date: April 21, 2009

SUBJECT: Public Hearing on Consideration of Granting an Extension of Exclusive Franchise for Collection, Transportation, and Disposal of Refuse

CERTIFICATION

The proposed Contract Extension
Regarding Consideration of Granting an Extension of Exclusive Franchise for Collection, Transportation, and Disposal of Refuse
has been reviewed and is hereby certified.

PUBLICATION REQUIRED:

The attached Notice/Resolution/Ordinance is to be published _____ time(s) at least _____ days before the scheduled meeting/public hearing/bid opening/etc., which is scheduled for _____, 200__.

AUTHORITY SOURCE FOR PUBLICATION REQUIREMENT:

Federal Codes:

Title _____ U.S.C. § _____
(Titles run 1 through 50)

California Codes:

Code _____ § _____
(i.e., Government, Street and Highway, Public Resources)

Federal Regulations:

Title _____ C.F.R. § _____
(Titles run 1 through 50)

California Regulations:


Title _____ California Code of Regulations § _____
(Titles run 1 through 28)

City

City Charter § _____ (i.e., 1310. Public Works Contracts. Notice published at least once at least ten days before bid opening)

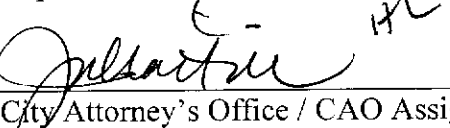
City Code § _____

1. As to City Functions, by



Department Head

2. As to Legality, by



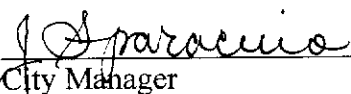
City Attorney's Office / CAO Assignment No 09.0531

3. As to Environmental
Impact Requirements, by



Director of Planning and Inspection

4. As to Substance, by



City Manager

Revision Date June 7, 2005

PROOF OF PUBLICATION

Santa Clara Weekly

P.O. Box 580, Santa Clara, California 95052

IN THE
City of Santa Clara,
State of California,
County of Santa Clara

CITY OF SANTA CLARA

NOTICE OF PUBLIC HEARING TUESDAY APRIL 21, 2009

CONSIDERATION OF GRANTING AN EXCLUSIVE FRANCHISE FOR COLLECTION ...

State of California, }
County of Santa Clara } SS.

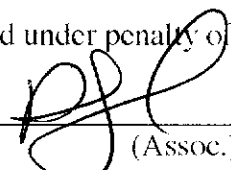
The undersigned, being first duly sworn, deposes and says: That at all times hereinafter mentioned affiant was and still is a citizen of the United States, over the age of eighteen years, and not a party to nor interested in the above entitled proceeding; and was at and during all said times and still is publisher of the Santa Clara Weekly, a newspaper of general circulation printed and published weekly in the County of Santa Clara, State of California, and said Santa Clara Weekly is and was at all times hereinmentioned a newspaper of general circulation as that term is defined by sections 6000 and following, of the government code of the State of California, and, as provided by said sections, is published for the dissemination of local or telegraphic news and intelligence of a general character, having a bonafide subscription list of paying subscribers, and is not devoted to the interest or published for the entertainment or instruction of a particular class, profession, trade, calling, race or denomination, or for the entertainment and instruction of any number of such classes, professions, trades, callings, races or denominations; that at all times said newspaper has been established, printed and published in the said County of Santa Clara and State of California at regular intervals for more than one year proceeding the first publication of the notice herein mentioned; that said notice was set in type not smaller than non-parell, describing and expressing in general terms the purport and character of the notice intended to be given; that the clipping of which the annexed is a true printed copy, was published and printed in said newspaper on the following dates to wit:

Pub: 4/8/2009

Dated at Santa Clara, California

This 9TH day of APRIL, 2009

I declared under penalty of perjury that the foregoing is true and correct.

Signed: 

(Assoc.) Publisher of the Santa Clara Weekly

The Santa Clara Weekly was adjudicated a newspaper of general circulation in and for the County of Santa Clara on September 3, 1974 (Case No. 314617). The Santa Clara Weekly was adjudicated a newspaper of general circulation within the City of Santa Clara on April 2, 1976 (Case No. 347776).

NOTICE OF PUBLIC HEARING ON CONSIDERATION OF GRANTING AN EXCLUSIVE FRANCHISE FOR COLLECTION, TRANSPORTATION AND DISPOSAL OF REFUSE

NOTICE IS HEREBY GIVEN that the City of Santa Clara has fixed April 21, 2009, at 7:00 P.M., in the City Hall Council Chambers, 1500 Warburton Avenue, Santa Clara, California, as the date, time and place of the Public Hearing for the purpose of considering and hearing all interested persons on the application of Mission Trail Waste Systems for a Second Amended and Restated Exclusive Franchise Agreement for Collection, Transportation and Disposal of Refuse By and Between the City of Santa Clara and Mission Trail Waste Systems.

Americans with Disabilities Act (ADA)
The public hearing location is accessible by wheelchair and public transportation. People with impaired speech or hearing may call (408) 615-2490 through 711 the nationwide Telecommunications Relay Service. The California Relay Service can also be reached in Spanish for both TDD and voice at 1-800-955-3000. Sign language interpretation, translation into languages other than English, and interpretation for persons with visual impairments are available. If you need sign or other interpretation, please call (408) 615-2490 at least one week in advance of the hearing. Reasonable modifications in policies, procedures and/or practices will be made as necessary to ensure access for all individuals with a disability or with limited English proficiency. For more information, contact City's ADA office at 408-615-3000.
Rod Diridon, Jr, City Clerk
Pub.: 4/8/2009